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INGRAM MICRO, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INGRAM MICRO, INC., a Delaware
corporation,

Plaintiff,

vs.

GREAT AMERICAN INSURANCE
COMPANY, an Ohio corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 8:22-cv-02235-HDV-KES

**STIPULATED PROTECTIVE
ORDER**

Complaint Filed: December 13, 2022

Trial Date: June 18, 2024

1 **1. A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,
 3 proprietary, or private information for which special protection from public
 4 disclosure and from use for any purpose other than prosecuting this litigation may
 5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
 6 enter the following Stipulated Protective Order. The parties acknowledge that this
 7 Order does not confer blanket protections on all disclosures or responses to
 8 discovery and that the protection it affords from public disclosure and use extends
 9 only to the limited information or items that are entitled to confidential treatment
 10 under the applicable legal principles. The parties further acknowledge, as set forth in
 11 Section 12.3, below, that this Stipulated Protective Order does not entitle them to
 12 file confidential information under seal; Civil Local Rule 79-5 sets forth the
 13 procedures that must be followed and the standards that will be applied when a party
 14 seeks permission from the court to file material under seal.

15 The entry of this Order does not preclude any Party from seeking a further order
 16 of this Court as appropriate. Nothing herein shall be construed to affect in any manner
 17 the admissibility of any document, testimony, or other evidence.

18 **B. GOOD CAUSE STATEMENT**

19 Plaintiff, INGRAM MICRO, INC. (“Ingram Micro”) brings this action for
 20 breach of contract and breach of the covenant of good faith and fair dealing against
 21 GREAT AMERICAN INSURANCE COMPANY (“GAIC”) under an insurance
 22 policy GAIC issued to Ingram Micro (“Policy”) (Ingram Micro and GAIC are referred
 23 to collectively herein as the “Parties”). This action arises out of a claim submitted
 24 under the Employee Dishonesty insuring agreement of the Policy involving an alleged
 25 theft by Ingram Micro’s former employees.

26 This action is likely to involve trade secrets, customer and pricing lists and other
 27 valuable research, development, commercial, financial, technical and/or proprietary
 28 information for which special protection from public disclosure and from use for any

purpose other than prosecution of this action is warranted. Such confidential and proprietary materials and information consist of, among other things, confidential business or financial information, information regarding confidential business practices, or other confidential research, development, or commercial information (including information implicating privacy rights of third parties), information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in preparation for and in the conduct of trial, to address their handling at the end of the litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the parties that information will not be designated as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record of this case.

2. **DEFINITIONS**

2.1 **Action**: The case pending in the United States District Court for the Central District of California assigned Case No. 8:22-cv-02235.

2.2 **Challenging Party**: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 **“CONFIDENTIAL” Information or Items**: information (regardless of how it is generated, stored, or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 **Counsel**: Outside Counsel of Record and House Counsel (as well as their support staff).

1 2.5 Designating Party: a Party or Non-Party that designates information or
2 items that it produces in disclosures or in responses to discovery as
3 “CONFIDENTIAL.”

4 2.6 Disclosure or Discovery Material: all items or information, regardless of
5 the medium or manner in which it is generated, stored, or maintained (including,
6 among other things, testimony, transcripts, and tangible things), that are produced or
7 generated in disclosures or responses to discovery in this matter.

8 2.7 Expert: a person with specialized knowledge or experience in a matter
9 pertinent to the litigation who has been retained by a Party or its counsel to serve as
10 an expert witness or as a consultant in this Action.

11 2.8 House Counsel: attorneys who are employees of a party to this Action.
12 House Counsel does not include Outside Counsel of Record or any other outside
13 counsel.

14 2.9 Non-Party: any natural person, partnership, corporation, association, or
15 other legal entity not named as a Party to this action.

16 2.10 Outside Counsel of Record: attorneys who are not employees of a party to
17 this Action but are retained to represent or advise a party to this Action and have
18 appeared in this Action on behalf of that party or are affiliated with a law firm which
19 has appeared on behalf of that party, and includes support staff.

20 2.11 Party: any party to this Action, including all of its officers, directors,
21 employees, consultants, retained experts, and Outside Counsel of Record (and their
22 support staffs).

23 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
24 Discovery Material in this Action.

25 2.13 Professional Vendors: persons or entities that provide litigation support
26 services (e.g., photocopying, videotaping, translating, preparing exhibits or
27 demonstrations, and organizing, storing, or retrieving data in any form or medium)
28 and their employees and subcontractors.

1 2.14 Protected Material: only Disclosure or Discovery Material that is
2 designated as “CONFIDENTIAL.”

3 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
4 from a Producing Party.

5 3. **SCOPE**

6 The protections conferred by this Stipulation and Order cover not only
7 Protected Material (as defined above), but also (1) any information copied or extracted
8 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
9 Protected Material; and (3) any testimony, conversations, or presentations by Parties
10 or their Counsel that might reveal Protected Material.

11 Any use of Protected Material at trial shall be governed by the orders of the trial
12 judge. This Order does not govern the use of Protected Material at trial.

13 4. **DURATION**

14 Even after final disposition of this litigation, the confidentiality obligations
15 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
16 in writing or a court order otherwise directs. Final disposition shall be deemed to be
17 the later of (1) dismissal of all claims and defenses in this Action, with or without
18 prejudice; and (2) final judgment herein after the completion and exhaustion of all
19 appeals, rehearings, remands, trials, or reviews of this Action, including the time limits
20 for filing any motions or applications for extension of time pursuant to applicable law.

21 5. **DESIGNATING PROTECTED MATERIAL**

22 5.1 Exercise of Restraint and Care in Designating Material for Protection.
23 Each Party or Non-Party that designates information or items for protection under this
24 Order must take care to limit any such designation to specific material that qualifies
25 under the appropriate standards. The Designating Party must designate for protection
26 only those parts of material, documents, items, or oral or written communications that
27 qualify so that other portions of the material, documents, items, or communications
28 for which protection is not warranted are not swept unjustifiably within the ambit of

1 this Order.

2 Mass, indiscriminate, or routinized designations are prohibited. Designations
3 that are shown to be clearly unjustified or that have been made for an improper
4 purpose (*e.g.*, to unnecessarily encumber the case development process or to impose
5 unnecessary expenses and burdens on other parties) may expose the Designating Party
6 to sanctions.

7 If it comes to a Designating Party's attention that information or items that it
8 designated for protection do not qualify for protection, that Designating Party must
9 promptly notify all other Parties that it is withdrawing the inapplicable designation.

10 5.2 Manner and Timing of Designations. Except as otherwise provided in
11 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise
12 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
13 under this Order must be clearly so designated before the material is disclosed or
14 produced.

15 Designation in conformity with this Order requires:

16 (a) for information in documentary form (*e.g.*, paper or electronic
17 documents, but excluding transcripts of depositions or other pretrial or trial
18 proceedings), that the Producing Party affix at a minimum, the legend
19 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
20 contains protected material. If only a portion or portions of the material on a page
21 qualifies for protection, the Producing Party also must clearly identify the protected
22 portion(s) (*e.g.*, by making appropriate markings in the margins).

23 A Party or Non-Party that makes original documents available for inspection
24 need not designate them for protection until after the inspecting Party has indicated
25 which documents it would like copied and produced. During the inspection and before
26 the designation, all of the material made available for inspection shall be deemed
27 "CONFIDENTIAL." After the inspecting Party has identified the documents it
28 wants copied and produced, the Producing Party must determine which documents, or

portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identify the Disclosure or Discovery Material on the record, before the close of the deposition all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court’s Scheduling Order.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37.1 *et seq.* or follow the procedures for informal, telephonic discovery hearings on the Court's website.

6.3 The burden of persuasion in any such challenge proceeding shall be

on the Designating Party. Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

(a) the Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the

1 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

2 (d) the court and its personnel;

3 (e) court reporters and their staff;

4 (f) professional jury or trial consultants, mock jurors, and

5 Professional Vendors to whom disclosure is reasonably necessary for this Action and
6 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

7 (g) the author or recipient of a document containing the information
8 or a custodian or other person who otherwise possessed or knew the information;

9 (h) Other persons to whom such disclosures must be made in
10 compliance with laws applicable to the parties;

11 (i) during their depositions, witnesses, and attorneys for witnesses,
12 in the Action to whom disclosure is reasonably necessary provided: (1) the deposing
13 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they
14 will not be permitted to keep any confidential information unless they sign the
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
16 by the Designating Party or ordered by the court. Pages of transcribed deposition
17 testimony or exhibits to depositions that reveal Protected Material may be separately
18 bound by the court reporter and may not be disclosed to anyone except as permitted
19 under this Stipulated Protective Order; and

20 (j) any mediator or settlement officer, and their supporting
21 personnel, mutually agreed upon by any of the parties engaged in settlement
22 discussions.

23 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
24 **PRODUCED IN OTHER LITIGATION**

25 If a Party is served with a subpoena or a court order issued in other litigation
26 that compels disclosure of any information or items designated in this Action as
27 “CONFIDENTIAL,” that Party must, unless expressly prohibited by law:

28 (a) promptly notify in writing the Designating Party. Such

1 notification shall include a copy of the subpoena or court order;

2 (b) promptly notify in writing the party who caused the subpoena or
3 order to issue in the other litigation that some or all of the material covered by the
4 subpoena or order is subject to this Protective Order. Such notification shall include
5 a copy of this Stipulated Protective Order; and

6 (c) cooperate with respect to all reasonable procedures sought to be
7 pursued by the Designating Party whose Protected Material may be affected.

8 If the Designating Party timely seeks a protective order, the Party served with
9 the subpoena or court order shall not produce any information designated in this action
10 as “CONFIDENTIAL” before a determination by the court from which the subpoena
11 or order issued, unless the Party has obtained the Designating Party’s permission. The
12 Designating Party shall bear the burden and expense of seeking protection in that court
13 of its confidential material and nothing in these provisions should be construed as
14 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
15 directive from another court.

16 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
17 **PRODUCED IN THIS LITIGATION**

18 (a) The terms of this Order are applicable to information produced
19 by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such
20 information produced by Non-Parties in connection with this litigation is protected by
21 the remedies and relief provided by this Order. Nothing in these provisions should be
22 construed as prohibiting a Non-Party from seeking additional protections.

23 (b) In the event that a Party is required, by a valid discovery request,
24 to produce a Non-Party’s confidential information in its possession, and the Party is
25 subject to an agreement with the Non-Party not to produce the Non-Party’s
26 confidential information, then the Party shall:

27 (1) promptly notify in writing the Requesting Party and the Non-
28 Party that some or all of the information requested is subject to a confidentiality

1 agreement with a Non-Party;

2 (2) promptly provide the Non-Party with a copy of the Stipulated
3 Protective Order in this Action, the relevant discovery request(s), and a reasonably
4 specific description of the information requested; and

5 (3) make the information requested available for inspection by
6 the Non-Party, if requested.

7 (c) If the Non-Party fails to seek a protective order from this court
8 within 14 days of receiving the notice and accompanying information, the Receiving
9 Party may produce the Non-Party's confidential information responsive to the
10 discovery request. If the Non-Party timely seeks a protective order, the Receiving
11 Party shall not produce any information in its possession or control that is subject to
12 the confidentiality agreement with the Non-Party before a determination by the court.
13 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
14 of seeking protection in this court of its Protected Material.

15 10. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

16 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
17 Protected Material to any person or in any circumstance not authorized under this
18 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
19 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
20 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
21 persons to whom unauthorized disclosures were made of all the terms of this Order,
22 and (d) request such person or persons to execute the "Acknowledgment and
23 Agreement to Be Bound" that is attached hereto as Exhibit A.

24 11. **INADVERTENT PRODUCTION OF PRIVILEGED OR**
25 **OTHERWISE PROTECTED MATERIAL**

26 When a Producing Party gives notice to Receiving Parties that certain
27 inadvertently produced material is subject to a claim of privilege or other protection,
28 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil

1 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
 2 may be established in an e-discovery order that provides for production without prior
 3 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
 4 parties reach an agreement on the effect of disclosure of a communication or
 5 information covered by the attorney-client privilege or work product protection, the
 6 parties may incorporate their agreement in the stipulated protective order submitted to
 7 the court.

8 12. **MISCELLANEOUS**

9 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 10 person to seek its modification by the Court in the future.

11 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 12 Protective Order no Party waives any right it otherwise would have to object to
 13 disclosing or producing any information or item on any ground not addressed in this
 14 Stipulated Protective Order. Similarly, no Party waives any right to object on any
 15 ground to use in evidence of any of the material covered by this Protective Order.

16 12.3 Filing Protected Material. A Party that seeks to file under seal any
 17 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
 18 only be filed under seal pursuant to a court order authorizing the sealing of the specific
 19 Protected Material at issue. If a Party's request to file Protected Material under seal
 20 is denied by the court, then the Receiving Party may file the information in the public
 21 record unless otherwise instructed by the court.

22 13. **FINAL DISPOSITION**

23 After the final disposition of this Action, as defined in paragraph 4, within 60
 24 days of a written request by the Designating Party, each Receiving Party must return
 25 all Protected Material to the Producing Party or destroy such material. As used in this
 26 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
 27 summaries, and any other format reproducing or capturing any of the Protected
 28 Material. Whether the Protected Material is returned or destroyed, the Receiving Party

1 must submit a written certification to the Producing Party (and, if not the same person
2 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
3 category, where appropriate) all the Protected Material that was returned or destroyed
4 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
5 compilations, summaries or any other format reproducing or capturing any of the
6 Protected Material. Notwithstanding this provision, Counsel and the Parties are
7 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition,
8 and hearing transcripts, legal memoranda, correspondence, deposition and trial
9 exhibits, expert reports, attorney work product, and consultant and expert work
10 product, even if such materials contain Protected Material, and as might otherwise be
11 required by law. Any such archival copies that contain or constitute Protected
12 Material remain subject to this Protective Order as set forth in Section 4
13 (DURATION).

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1 14. Any violation of this Order may be punished by any and all appropriate
2 measures including, without limitation, contempt proceedings and/or monetary
3 sanctions.

4 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

5 Date: October 27, 2023

GODES & PREIS, LLP

6 By: Benjamin G. Reynolds

7 Joseph M. Preis
8 Benjamin G. Reynolds
9 Attorneys for Plaintiff
INGRAM MICRO, INC.

10 Date: October 27, 2023

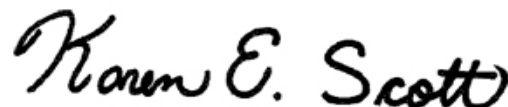
**ANDERSON, MCPHARLIN &
CONNERS LLP**

11 By: David J. Billings

12 Carleton R. Burch
13 David J. Billings
14 Jesse Yanco
15 Attorneys for Defendant
GREAT AMERICAN
INSURANCE COMPANY

16
17 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

18
19 DATED: October 27, 2023



20 KAREN E. SCOTT
21 United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on _____ [date] in the case of ***Ingram Micro, Inc. v. Great American Insurance Company, Case No. 8:22-cv-02235***. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____